

**North Carolina 911 Board  
MINUTES  
March 14, 2008**

<b><u>Members Present</u></b>	<b><u>Staff Present</u></b>	<b><u>Guest</u></b>
Jason Barbour (NCNENA)	Ron Adams (ITS)	Jerry Boggs (NCNENA)
Wayne Bowers (NCLM)	Richard Bradford (DOJ)	Lee Canipe (Embarq)
Frank Cairon (CMRS Pending)	Marsha Tapler (ITS)	Valerie Carter (ITS)
Robert Cherry (Police Chief)	Richard Taylor (ITS)	Delbert Edwards (Wayne Co)
Alan Cloninger (Sheriff)		Karen Fink (Verizon Business)
Dave Corn (LEC)		Pat Garner (City of Sanford)
Bill Craigle (CMRS)		David Gold (Intrado)
Christi Derreberry (CMRS)		Eric Griffin (Lee Co)
Joe Durham (NCACC)		Hal Hegwer (City of Sanford)
Jerry Jones (LEC)		Topper Hightower (AT&T)
Wesley Reid (NCNENA)		Matthew Hinckle (Intrado)
Slayton Stewart (CMRS)		Scott Horne (Synergem)
Laura Sykora (LEC)		Tim Jenkins (Intrado)
Jean Thaxton (LEC)		Doug Kiger (Kernersville Police)
Bill Willis (Deputy NC CIO)		James McLeod (Embarq)
		Kevin Medlin (Orange Co)
		Tonya Pearce (NCNENA)
		Michael Reitz (NCAPCO)
<b><u>Members Absent</u></b>	<b><u>Staff Absent</u></b>	Bill Rogers (Lee Co)
David Dodd (NCAPCO)		Ryan Spong (Kernersville Police)
		Rebecca Troutman (NCACC)
		Marsha Withrow (NCAPCO / Charlotte Fire)
		Donna Wright (NC NENA / Richmond Co)

**Chair's Welcoming Remarks:**

Chairman Willis called the meeting to order at 10:04 AM. He welcomed pending new Board member Frank Cairon to the Board, and encouraged him to participate in the discussions that would be taking place, noting, however, that until his appointment paperwork was complete he would not be entitled to vote.

### **Ethics Awareness/Conflict of Interest Statement**

Chairman Willis read the conflict of interest statement printed on the agenda and asked if any Board members wished to note any potential conflicts. None were cited.

### **Approval of Minutes**

Chairman Willis asked if any member of the Board had any corrections to the minutes of the February 8, 2008 NC 911 Board meeting. Richard Taylor noted that a correction had been suggested to modify the meeting start time from 10:00 to 10:00 AM on page 2, and a correction on page 7 that Wesley Reid was the second to a motion, not Wayne Bowers. Wayne Bowers moved to approve the minutes as amended, Joe Durham seconded, and Chairman Willis opened the floor to discussion.

Wesley Reid asked if the Eligible 911 Fund Expenditures List could include a listing of expenditures that definitely were not approved as well as those that were. As examples he cited items that were discussed at the committee level as definitely not being eligible for use of funds. Chairman Willis said that he had conferred with counsel on that topic, and had determined that it was preferable to simply state that only expenditures appearing on the list would be approved; if they are not on that list, they are not approved. He said that if there were two lists, someone might think that because an expenditure was not on the not-approved list that would imply that it was approved, where just the opposite would be true: if it is not on the approved list, then it is not approved, period. Discussion followed regarding use of the minutes to provide examples of ineligible uses, and Chairman Willis cautioned that discussions within committee would not be in the minutes. At the close of the discussion he underscored his earlier statement that if it's not on the list, then no money may be spent on it.

Chairman Willis called the motion, and it passed unanimously.

### **Discussion of PSAP Fund Distribution - Update**

Richard Taylor presented a list of city and county PSAPs that reported to the State Treasurer's Office that they had been receiving 911 funds during fiscal year 2006-2007. The spread sheet list included entries for both the wireline and wireless revenues that the PSAPs reported they received during that fiscal year, as well as entries for the amounts the Wireless Board distributed to each PSAP. Mr. Taylor noted that the PSAPs on the list might be primary or secondary, because prior to January 1, 2008, there was no requirement that PSAPs must be primary to receive wireline service fees.

Mr. Taylor said that when the Wireless Board distribution records were compared to the amounts PSAPs reported as wireless revenue, there were many discrepancies, some very large. While some seemed to be nothing more than a digit transposition, most were not. Chairman Willis observed that the Wireless Board distribution amounts were verifiable. He added that some discrepancies might have arisen due to reports having been done on a cash basis rather than a modified accrual basis, and other discrepancies might simply be reporting errors, but whatever the case, the differences must be reconciled. Richard Bradford added that the Treasurer's Office does not verify any of the numbers reported by the local governments. Richard Taylor pointed out that

these are the numbers reported in the municipal and county audits conducted every year by the local governments that are submitted to the Treasurer's Office.

Mr. Taylor drew attention to the numbers reported as wireline revenue, observing that, unlike the wireless amounts, this Board has no way to verify those numbers. He noted, however, that judging from the discrepancies present between the reported wireless amounts and those known by the Wireless Board to be accurate, the wireline numbers may also be inaccurate. Since future fund distributions are statutorily predicated upon the amount reported to the Treasurer's Office through the municipal and county audits, Mr. Taylor said that staff believes it is imperative that each of the PSAPs showing known discrepancies be contacted and asked to justify the disparity before payments are made based upon the amounts reported. Chairman Willis said that until those questions are resolved, we will base distribution upon the lesser of the sums reported, whether from the Treasurer's Report or the Wireless Board records.

Mr. Taylor drew attention to a listing of secondary PSAPs on the last page of the spread sheet that had been receiving wireline revenue under the old statute, noting that under the new legislation they would no longer be eligible to receive 911 fund disbursements. Then he drew attention to a group of PSAPs listed below the secondaries, stating that these were PSAPs that had been certified as Primary PSAPs by the Wireless Board, and had received wireless revenue, but did not appear on the Treasurer's Report, so are ineligible to receive funding under the new statute.

A question arose regarding why the former wireless Primary PSAPs were no longer eligible to receive 911 fund disbursements. Richard Bradford responded that the situation with UNC Chapel Hill Office of Public Safety is simply that they are not subject to the law that requires them to report to the local government commission, so they did not report, and therefore are not on the list. If they are not on the list, then they are not eligible for fund distribution. Mr. Bradford observed this raises the question of whether or not a technical correction is needed from the legislature to address this issue, pointing out that the same situation exists for the Eastern Band of Cherokee Indians. He said that for the governmental agencies that do not appear on the report, the only reason they are now ineligible is that they did not submit the report, adding that why they did or didn't is something only they can address.

Mr. Taylor continued by drawing attention to the total amount collected by the 911 Board to date under the new fee collection model, pointing out that it is less than what is owed to the PSAPs. He said staff has gone through the list of providers that are supposed to be remitting to the Board, and has discovered many providers, especially on the VoIP side, that have not paid anything yet. Mr. Taylor said Marsha Tapler has been telephoning these delinquent providers to determine why they have not remitted, and many reasons have been offered. Some said they sent the money to the counties, and had not gotten the money back to send to the Board, so that money is "in transition". Several have blamed the problem on their billing cycles, saying they will not have collected the fees for January billings until the latter part of March, so they have not yet remitted any to the Board. Yet another group claims they simply forgot they were supposed to do that.

Jerry Jones asked Mr. Taylor how much should have been collected had everyone paid. Richard replied that based upon the calculations made when the legislation was being crafted, the projected revenue should be close to six million dollars per month. He added that he thought only one VoIP provider had submitted its fees, which surprised him because he knows of a couple of other major VoIP providers that are definitely operating in North Carolina. He said that ultimately we know there is still a lot of money out there that is due. He noted that we do not have to make the exact projected payment to PSAPs this month, but that by June 30, 2008, we have to ensure that all the PSAPs are made whole with their June 30, 2007 numbers. He said that unless the Board has some different ideas or better advice, he thinks that the best approach to this month's distribution would be to pro-rate the payments based upon what has been received to date, using the lesser amount of the PSAP's questioned sums referenced earlier to calculate each PSAP's distribution.

Chairman Willis posited two things that require Board action. The first is how to reconcile the discrepancy between the Treasurer's Report and the actual checks written by the Wireless Board. He said that the staff proposal is to use the lesser figure until the discrepancies are rectified. He said that the second is how to contend with having insufficient funds to meet our projected monthly distributions to PSAPs, adding that the staff proposal is to pro-rate the distribution amounts based upon available funds, ultimately truing up to the total projected distributions once the fee collection/remittance problems with providers have been resolved.

Sheriff Cloninger asked if the PSAPs that were receiving wireless funds but are not eligible under the current statute will be notified of that situation, and Chairman Willis assured him staff will be, if it has not already been, in direct contact with them regarding that issue. Sheriff Cloninger then asked if the Board had any enforcement authority in requiring providers who were delinquent in their payments to meet their obligation, if the Board would be issuing a demand letter of deficiency or if there would be any penalty incurred by companies holding back their payments. Chairman Willis said that we would start by simply reminding them, and proceed from there. Richard Taylor observed that many of these providers use a third party "tax preparation" service to pay such fees, and that the providers themselves are often unaware of failures by these services to make such payments. Chairman Willis added that it is important to remember that it is not the "tax preparation" service's responsibility to make the payments; it is the provider's responsibility. He added that as we encounter difficulty in having these payment problems corrected we will ratchet up the sense of urgency and pressure on those entities that are not meeting their obligation.

Sheriff Cloninger made a motion to move forward with Chairman Willis's two proposals: to use whichever is the lesser amount between the PSAPs' reported wireless revenue or the Wireless Board's distribution record to determine a current monthly distribution to the PSAPs, pending reconciliation of those figures, and to pro-rate this month's distributions to the PSAPs based upon available funds. Laura Sykora seconded the motion.

Discussion followed regarding whether or not to establish the pro-rata percentage to be used to calculate this month's distribution, and Chairman Willis said that since other revenue may arrive before the checks are cut he would rather not tie the staff to a fixed

percentage at this time. When asked if this policy was only to apply to this one month's distribution or to future distributions as well, Chairman Willis said that he thought it should apply to future distributions until enough funds are collected to make the full payments and reconcile the pro-rated payments. Joe Durham suggested the motion be amended to reflect both of these observations. Sheriff Cloninger so amended his motion, and second Laura Sykora agreed to the amendment.

Jason Barbour asked what will happen if collections are not sufficient by June 30 to meet the statutory obligations for the fiscal year, and Chairman Willis replied that the seriousness of the collections problems will escalate dramatically well before June 30. Mr. Barbour then asked how or if we should prepare the PSAPs for the possibility that their first checks will not be what they expected. Chairman Willis said we will send an explanation with the check of how the amount was calculated and a full description of why that was necessary.

Richard Taylor interjected that this happened during the middle of a fiscal year. PSAPs directly received wireline checks all the way through January, so the Board is going to require an accounting of the wireline amounts those PSAPs received during the first six months of the fiscal year in order to calculate what remaining amount is necessary to make them whole with the FY 2007 amounts.

Hearing no further discussion, Chairman Willis called the motion, which carried unanimously.

Before moving to the next agenda item, Wayne Bowers expressed concern that since we have seen discrepancies in the reporting of wireless revenue, it seems likely that reporting of wireline revenue may contain similar discrepancies. He noted that when this revenue was reported to the Treasurer's Office in the past the report was essentially without consequence, but that now it is very important that it be correct. If a county or city incorrectly reported wireline revenue in excess of what it actually received in FY 2006-2007, it will reap a benefit forever through this distribution model. Mr. Bowers speculated that although he doesn't know if there is anything we can do about it, the intent of the law appears to be predicated upon those reports being accurate representations of actual revenue. He asked if there is any way we can verify that these amounts are correct.

Chairman Willis replied that he understands and shares the concern, but that he didn't think that we had any ability to audit that data. Richard Bradford concurred that the Board does not have that authority. Dave Corn offered to contact some ILECs to see if they could provide any corroborative data. Chairman Willis observed that while Mr. Corn was certainly entitled to ask, the Board could not make use of that information since the legislation dictates that the information provided by the local governments be used. Wayne Bowers asked if that didn't apply to the Wireless Board information as well, and Chairman Willis said it would seem so. Richard Bradford observed that while this might be an interesting way to gather some additional facts, from the providers' standpoint that information would probably be considered proprietary, but under the law it would not be public, so there would be limited use to be made of it in this setting. He offered as an example the difficulty in taking data from a particular provider looking at a particular jurisdiction, and saying "the provider says that the dollars are this and you say they're

that..." How would you reconcile any difference since it would involve the identification of subscribers, when even the number of subscribers is not considered public under the law? He concluded by noting that yes, the Board might be able to get the information, but utilizing it in an audit or review type setting would be very limited.

Discussion turned to whether the Board could ever modify the base amount distribution, and Wayne Bowers observed that it was that amount "forever". Richard Bradford concurred. Richard Taylor noted that when the Board has to report its findings on expenditures and revenues to the Legislature after two years, recommendations for changes could possibly be considered, but there is no sunset on the current base amount determination. Chairman Willis speculated that perhaps information gleaned from the Comprehensive Statewide Plan project report will provide some guidance on how to address that issue. Mr. Bowers suggested we at least compare the wireline revenues reported to the Treasurer's Office in fiscal 2006 with those reported in 2007, and Chairman Willis reiterated that although that might help us understand, it does not provide any authority to demand any correction.

Mr. Bowers asked if UNC CH and the Eastern Band of Cherokee Indians simply reported revenues to the Treasurer's Office, even though they are not obligated to do so, could they be eligible to receive disbursement. Richard Bradford reminded him that the statute specifically refers to the amount reported in fiscal 2007, so regardless of what happens after that, they were not on that list that year so they are not eligible. He said that this is one item he has discussed with his counterpart at the Treasurer's Office, and he believes it is under discussion there, but he has had no further discussion to date.

Sheriff Cloninger asked Chairman Willis if a revenue report could become a standing agenda item for future meetings, and Chairman Willis said that would be done.

Chairman Willis noted that a vote was still necessary to approve the list of approved expenditures written by staff based upon the discussion and vote that took place at the last meeting. Sheriff Cloninger made a motion to approve the written list as presented, and Christi Derreberry seconded. Wayne Bowers questioned the absence of reference to back-up PSAP eligibility, and Richard Taylor said that since there was an approved Wireless Board policy regarding back-up PSAPs brought forward to the new Board, he didn't add it to this list, adding, however, that he would be happy to do that someone felt it was necessary. Chairman Willis observed the list represents things money can be spent on, regardless of whether the expenses are incurred at the Primary PSAP or the back-up PSAP, as long as the funds flow through the Primary. Further discussion followed regarding the distinction between what things money could be spent on and policies governing those expenditures, culminating in a consensus determination to accept the list as presented. Chairman Willis called the motion, and it passed unanimously.

### **Request from City of Sanford for Primary PSAP Funding**

Citing this as a local government issue, Chairman Willis pulled this item from the agenda pending further discussions between the stakeholders.

### **Request from Eastern Band of Cherokee Indians for Primary PSAP Funding**

Richard Taylor reported that he had been in contact with EBCI yesterday, and that this issue is also outside the Board's authority to make a determination, so their representatives withdrew their request to be on the agenda.

### **Update on Request from City of Kernersville for Primary PSAP Funding**

Before recognizing Doug Kiger from Kernersville Police Department, Chairman Willis said that although the Board does not have the authority to satisfy Kernersville's request, he would be happy to listen to what Mr. Kiger had to say. Reviewing Kernersville's situation, Mr. Kiger said that they were trying to resolve two issues: how to sustain their funding through this fiscal year and how to receive funding in future years. He reported that since the last 911 Board meeting the town manager and police chief had met with mid-level management at Forsyth County to try to restart discussion about receiving some "pass through" money from the county, and that the county is reportedly considering it. Chairman Willis said that while he understands and is sympathetic to Kernersville's situation, he reiterated that the Board does not have the discretion to resolve either of their problems. The law went into effect on January 1, and Kernersville does not meet the requirements set forth in it to receive 911 funds either this year or any other. He suggested to Mr. Kiger that in deliberations with Forsyth County he might want to seek a solution to this year's funding dilemma as well as future funding.

### **Update on Rule Making**

Richard Bradford reported that the rule making committee had met on a conference call yesterday, with the next one planned for March 26. He advised there is a draft that the committee is working with, and that although progress will likely be slow, it will be steady. He invited Board members to look at the document in the Board members section of the website, as well as the one-page overview of the rule making process. He also invited Board members to share any questions or suggestions with the committee.

When asked to provide an example of some things that might get changed as a result of rule making, Mr. Bradford replied that the principle behind rule making is to fill in "gaps" in the statute. Using the list discussed earlier as an example, he said we might make a rule that says the Board may make a list. That's fair because the statute identifies some things that are eligible; that rule just establishes the authority of the Board to set the list, and to change it from time to time. Conversely, a rule that identifies specific things that are allowable is harder to change when necessary. Mr. Bradford said that topic was discussed at the committee meeting yesterday and that the consensus was not to establish a list in the rules, which he believes is probably better, and certainly easier to get past the Rules Review Committee at OAH.

### **Legislative Clarifications and Corrections**

In the interest of time Chairman Willis elected to table this topic until the next meeting. In the meantime he asked Board members to provide any suggestions or recommendations they may have regarding this topic to staff so that at the April meeting we might have a structured discussion of the topic. Sheriff Cloninger asked if staff would

distribute any recommendations it is considering prior to that meeting and Chairman Willis assured him that would happen. Rebecca Troutman observed that the Legislative Technical Corrections Committee will hold its final meeting before the next full Board meeting, so there might be a timing problem with having our corrections make it into the technical corrections bill. Richard Bradford concurred that there might be a problem, and Chairman Willis suggested that we accelerate submission of recommendations with a target date of the end of March and possibly convene a special called meeting to discuss them in advance of the bill deadline should that prove necessary.

### **Update on Comprehensive Statewide 911 Plan**

David Gold, the Intrado Project Manager assigned to the Comprehensive Statewide 911 Plan project, provided an update of the progress being made with the project. He began by introducing Tim Jenkins, the Intrado Vice President that oversees the consulting and systems integration group. Mr. Jenkins thanked the Board for the opportunity to provide services to the Board, saying that Intrado is very proud and pleased to be doing this work on the Board's behalf.

For the benefit of new Board members Mr. Gold reviewed material that he had presented to the Wireless Board at its November 9, 2007 meeting. He noted that there will be a short term and long term version of the plan defined as three years and five plus years. He said that one of the primary goals is to enable delivery of 911 calls across networks and among PSAPs throughout North Carolina. He observed that there is a focus on doing an assessment and including in the plan the opportunity to implement elements of Next Generation technology. Much of what they have been engaged in during the first couple of months of the project has been to establish an inventory of all the 911 assets currently in the State.

Mr. Gold briefly touched upon each of the six primary tracks of work associated with Intrado's statement of work, focusing mostly on PSAP inventory and assessment. He reported that they have developed a 150 question survey instrument that they send to the PSAPs in advance of telephone contacts and onsite visits that follow up on the survey and include physical assessments of the PSAPs. He reported that thus far 110 of the approximately 128 PSAPs certified as eligible PSAPs by the Wireless 911 Board have been contacted and telephone surveys have been conducted. Within those 110, 78 onsite interviews have been conducted. Mr. Gold said that now they are beginning to look into the secondary PSAPs and PSAPs that play a role as either alternate PSAPs or back-up PSAPs and the many varieties of relationships among them.

Mr. Gold shared a graphic representation of how Intrado staff members throughout the country as well as within the state are participating in this effort. He illustrated how all the information they are collecting is being put into a database creating various reports that feed into their plan, and noted that they are approximately 50% of the way through the overall project.

Mr. Gold offered to answer any questions Board members might have, and Jerry Jones asked if he could have a copy of the survey instrument. Richard Taylor replied we would post it on the public part of the website so anyone who is interested can find it. Mr. Jones also asked if staff was receiving any interim reports between presentations to the



Board, and Richard Taylor replied that staff has had a conference call with the project team every two weeks since the project kicked off, as well as more frequently when circumstances have warranted. Jean Thaxton asked if Intrado's recent request for CLEC authority in the State was being fueled by this project, and Mr. Gold deferred to Mr. Jenkins, who explained that Intrado has several different business units and branches, and that the unit responsible for this project is completely separate from the unit filing that request. Chairman Willis assured all that any service provisioning that may be recommended in this plan will entail a completely different procurement process; that implementing any of the recommendations the report may offer will be entirely up to the Board, not Intrado.

### **Draft of NSI (Non Service Initialized) PSAP Phone Survey**

Chairman Willis said that Richard Taylor will be speaking about this at the upcoming NENA and APCO chapter meetings to try to refine the survey before sending it out.

### **Further Study of Use of 911 Funds to Include Training**

Chairman Willis deferred this to the Use of Funds subcommittee at its meeting proposed for March 27. When some committee members said they had conflicts on that date, Chairman Willis said other dates will be considered.

### **Update of FCC/Federal Legislative Activity**

Chairman Willis said that Richard Taylor will send out an update on FCC activity rather than discuss it in detail at this time. Richard did note, however, that a six month stay had been issued regarding the accuracy requirements the telcos are supposed to meet.

### **Update of PSAP Revenue/Expenditure Reports**

Chairman Willis asked Richard Taylor if this information could be sent out, and Richard said that could be done. Chairman Willis said that he will make this a standing report for future agendas.

### **Adjourn**

Before adjournment Joe Durham reminded everyone that their financial disclosure forms are due April 15, and if they are not turned in Board members may lose their seats on the Board and/or be fined. Chairman Willis underscored that it had to be in by the 15<sup>th</sup>, not postmarked on that date. Mr. Durham added that everything must be filled in; use n/a if the question is not applicable, but do not leave any field blank, as they will return the form to you if you do.

Chairman Willis asked for a motion to adjourn, Sheriff Cloninger so moved, Bill Craigle seconded, and the meeting adjourned at 12:03 PM.